

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE:      APRIL 18, 2007**

**DEPARTMENT:      PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-18625 - APPLICANT/OWNER: LE FERIA, LLC**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE MARCH 21, 2007 CITY COUNCIL MEETING AT THE REQUEST OF COUNCILWOMAN TARKANIAN.***

**\*\* CONDITIONS \*\***

The Planning Commission (6-0 vote) and staff recommend DENIAL.

**Planning and Development**

1. Conformance to the Conditions of Approval for Rezoning (Z-0017-72) shall be required, except as amended herein.
2. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-19214) shall be required.
3. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This request is for a Variance to allow 39 parking spaces where 95 parking spaces are required for an existing mini-storage facility, retail, and office development consisting of three buildings on 2.33 acres at 3851 Pennwood Avenue. A Site Development Plan Review (SDR-19214) is also for the subject site to allow an expansion of allowable uses to include retail uses and increase the tenantable space available. As a part of that application the applicant requests waivers of the parking area landscaping and perimeter landscape buffer requirements.

The applicant indicates that the existing mini-storage facility, retail, and office development serves the demand for affordable retail and office space that primarily services the immediate neighborhood. Due to the self-imposed hardship inevitably created by the intensity and extent of changes to the site without all appropriate approvals, denial of this request is recommended.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
03/15/72	The City Council approved a Rezoning (Z-0017-72) to allow M (Industrial) zoning, where C-1 (Limited Commercial) had been the zoning on a portion of the site. The Planning Commission and Staff recommended approval.
09/27/79	The Board of Zoning Adjustment approved a Variance (V-0071-79) to allow a resident manager's quarters in a mini-warehouse complex where residential uses are not allowed. Staff recommended approval.
02/22/07	<a href="#">The Planning Commission recommended denial of companion item SDR-19214 concurrently with this application.</a>  <a href="#">The Planning Commission voted 6-0 to recommend DENIAL (PC Agenda Item #25/rts).</a>
<b><i>Related Building Permits/Business Licenses</i></b>	
08/02/94	A business license for a C11 (Contractor - Any person who is licensed or required to be licensed as a contractor under NRS Chapter 624, whether or not the contractor maintains a business location within the corporate limits of the City) category license was processed in by the Department of Finance and Business Services. This license (C11-05342) was originally issued by Business Services on 08/04/94 and was re-issued due to a change of location on 04/26/99 with no apparent Planning and Development review. This license is listed for suite B13 at 3851 Pennwood Avenue.
11/04/94	A business license for a C05 (Tobacco Dealer – Retail - Any person licensed to sell tobacco through a vending machine or in conjunction with another gross retail license as defined in NRS 370. The fee amount shall be charged for each sales location, whether a machine or other retail location) category license was processed in by the Department of Finance and Business Services. This license (C05-01690) was issued by Business Services on 11/22/94 with no apparent Planning and Development review. This license is listed for suite B10 at 3851 Pennwood Avenue.

11/04/94	A business license for a C15 (Convenience Store - Business located in a building or portion thereof, which is separated from the rest of the building, selling groceries at retail and having not less than 1,200 sq. ft. nor more than 5,000 sq. ft. of floor space exclusive of warehouse and office space) category license was processed in by the Department of Finance and Business Services. This license (C15-00197) was issued by Business Services on 11/22/94 with no apparent Planning and Development review. This license is listed for suite B10 at 3851 Pennwood Avenue.
01/16/96	A business license for a D16 (Department Store - A retail establishment that maintains a selected variety of merchandise for purchase by the general public) category license was processed in by the Department of Finance and Business Services. This license (D16-00056) was originally issued by Business Services on 02/15/96 and was re-issued due to a change of owner on 02/15/06 with no apparent Planning and Development review. This license is listed for suite B21 at 3851 Pennwood Avenue.
03/23/99	A business license for a F07 (Furniture Store - Sale of new furniture only) category license was processed in by the Department of Finance and Business Services. This license (F07-01586) was denied by the Planning and Development Department on 11/30/06, pending verification of adequate parking. This license was originally issued by Business Services on 04/20/99 but is under review for a change of location (updated suite number, same building) as of 11/20/06. This license has not been re-issued as of 01/22/07. This license is listed for suite B14 at 3851 Pennwood Avenue.
10/20/00	A business license for a B02 (Bakery - Businesses specializing in baked goods, not providing meals as found in restaurant (R05, R07, R09)) category license was processed in by the Department of Finance and Business Services. This license (B02-00085) was issued by Business Services on 01/09/01 with no apparent Planning and Development review. This license is listed for suite A1 at 3851 Pennwood Avenue.
10/23/02	A business license for a B08 (Beauty/Cosmetics Sales - Sales of cosmetics and beauty supplies) category license was processed in by the Department of Finance and Business Services. This license (B08-00842) was denied by the Planning and Development Department on 12/04/06, pending issuance of a Certificate of Occupancy. This license was originally issued by Business Services on 11/01/02 but is under review for a change of location (updated suite number, same building) as of 11/07/06. This license has not been re-issued as of 01/17/07. This license is listed for suite B4 at 3851 Pennwood Avenue.

03/07/03	A business license for a G04 (Gifts and Novelties - The sale of ornamental gifts and novelties, ie, statues, clocks, souvenirs, plaques, etc) category license was processed in by the Department of Finance and Business Services. This license (G04-05167) was denied by the Planning and Development Department on 11/21/06, pending verification of adequate parking. This license was originally issued by Business Services on 03/25/03 but is under review for a change of name and expansion (added a suite number, same building) as of 11/07/06. This license has not been re-issued as of 01/22/07. This license is listed for suite B16 at 3851 Pennwood Avenue.
06/27/03	A business license for a W10 (Wire Service - Which is any person who engages in the business of transmitting or receiving information or funds by means of a communication system in which the transmission and reception stations are directly connected by one or more telephones or computers) category license was processed in by the Department of Finance and Business Services. This license (W10-00044) was denied by the Planning and Development Department on 10/18/06, pending verification of adequate parking. This license was originally issued by Business Services on 10/17/03 but is under review for a change of location as of 10/11/06. This license is listed for suite B1 at 3851 Pennwood Avenue.
10/16/03	A business license for a M06 (Miscellaneous Sales - Sales of tangible goods not otherwise specified in the Code) category license was processed in by the Department of Finance and Business Services. This license (M06-02771) was denied by the Planning and Development Department on 10/17/06, pending verification of adequate parking. This license was originally issued by Business Services on 10/27/03 but is under review for a change of location as of 10/16/06. This license is listed for suite B1 at 3851 Pennwood Avenue.
06/20/05	A business license for a P11 (Stenographer - Any person, other than a certified shorthand reporter or court reporter, who engages in the business of typing documents for the general public or for persons other than himself or his immediate employer) category license was processed in by the Department of Finance and Business Services. This license (P11-00557) was approved by the Planning and Development Department on 06/28/06. This license was originally issued by Business Services on 06/30/05 but is under review for a change of location as of 05/11/06. This license has not been re-issued due to a Fire Department denial as of 06/29/06. This license is listed for suite B7 at 3851 Pennwood Avenue.
10/18/05	A business license for a T18 (Miscellaneous Telephone Sales/Service - A business which sells telephones, cellular phones, and other miscellaneous accessories) category license was processed in by the Department of Finance and Business Services. This license (T18-00683) was approved by the Planning and Development Department on 10/21/05 and issued by Business Services on 11/07/05. This license is listed for suite G2 at 3851 Pennwood Avenue.

10/19/05	A building permit application, plan check L-1841-05, was submitted for the site. This was for a Non-work Certificate of Occupancy for a rental office. This permit (05007418) was reviewed by the Planning and Development Department and issued by the Building and Safety Department the same day as submitted.
10/19/05	A business license for a W11 (Mini Warehouse - Any person who operates a facility divided into individual spaces for storing personal property which are rented or leased to individual occupants who have access to those units but do not conduct a business there from) category license was processed in by the Department of Finance and Business Services. This license (W11-00005) was approved by the Planning and Development Department on 01/31/06 and issued by Business Services on 01/31/06. This license is listed for suite B26 at 3851 Pennwood Avenue.
10/21/05	A business license for a P27 (Personal Services - Any business that provides personal services, including without limitation a wake-up service, reminder service, errand service, vehicle registration service, personal chef, cook, shopping service or pet sitting service) category license was processed in by the Department of Finance and Business Services. This license (P27-00314) was denied by the Planning and Development Department on 11/22/06, pending verification of adequate parking. This license was originally issued by Business Services on 11/04/05 but is under review for a change of location (updated suite number, same building) as of 11/07/06. This license has not been re-issued as of 01/09/07. This license is listed for suite B6 at 3851 Pennwood Avenue.
01/31/06	A building permit application, plan check L-3018-06, was submitted for the site. This was for a Non-work Certificate of Occupancy for a general retail location. This permit (06000721) was reviewed by the Planning and Development Department and issued by the Building and Safety Department the same day as submitted.
01/31/06	A business license for a C07 (Clothing Store - New retail clothing sales) category license was processed in by the Department of Finance and Business Services. This license (C07-03484) was approved by the Planning and Development Department on 02/08/06 and issued by Business Services on 02/15/06. This license is listed for suite B23 at 3851 Pennwood Avenue.
02/21/06	A building permit application, plan check L-0292-06, was submitted for the site. This was for a Non-work Certificate of Occupancy for a general retail location. This permit (06001377) was reviewed by the Planning and Development Department and issued by the Building and Safety Department the same day as submitted.
08/18/06	A building permit application, plan check L-3485-06, was submitted for the site. This is for a tenant improvement to obtain a Certificate of Occupancy for a restaurant expansion. This application (739306) was reviewed and problemed by the Planning and Development Department on 12/01/06 due to parking concerns. There are outstanding reviews within the Building and Safety Department portion of the review and no permit has been issued.

10/03/06	A business license for a M21 (Merchandise Broker - Any person who acts as an agent for others in negotiating contracts, purchases, the sale of goods, wares or services and who does not take possession of the merchandise) category license was processed in by the Department of Finance and Business Services. This license (M21-00938) was approved by the Planning and Development Department on 10/05/06 and issued by Business Services on 10/20/06. This license is listed for suite B5 at 3851 Pennwood Avenue.
10/03/06	A business license for a T18 (Miscellaneous Telephone Sales/Service - A business which sells telephones, cellular phones, and other miscellaneous accessories) category license was processed in by the Department of Finance and Business Services. This license (T18-00705) was approved by the Planning and Development Department on 10/05/06 and issued by Business Services on 10/20/06. This license is listed for suite B5 at 3851 Pennwood Avenue.
10/30/06	A business license for a C23 (Check Cashing Service Limited - Service of cashing checks for a fee, service charge or other consideration as a service that is supplemental to a retail business that otherwise does not provide services normally associated with a financial institution. The term does not include a general financial institution, specified financial institution, or any business that provides any kind of loan, cash advance, or deferred deposit service) category license was processed in by the Department of Finance and Business Services. This license (C23-98869) was denied by the Planning and Development Department on 11/14/06, pending approval of a parking variance. This license has not been re-issued as of 01/08/07. This license is listed for suite B1 at 3851 Pennwood Avenue.
<b><i>Pre-Application Meeting</i></b>	
11/22/06	A pre-application meeting was held and elements of this application were discussed. It was noted that the site plan was to identify all uses on-site. Additionally, various parking standards were identified along with disability accessible and loading space standards. Submittal requirements were discussed.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required nor was one held.	

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	2.33

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Office, other than Listed and General Retail	LI/R (Light Industrial / Research)	M (Industrial)
	Mini-warehouse	LI/R (Light Industrial / Research)	M (Industrial)
North	Multi-Family Residential	H (High Density Residential)	R-4 (High Density Residential)
South	Auto Repair Garage - Major	LI/R (Light Industrial / Research)	M (Industrial)
East	General Retail	LI/R (Light Industrial / Research)	M (Industrial)
West	Multi-Family Residential	M (Medium Density Residential)	R-3 (Medium Density Residential)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>		X	
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>			
A-O (Airport Overlay) District	X		Y
<b>Trails</b>		X	
<b>Rural Preservation Overlay District</b>		X	
<b>Development Impact Notification Assessment</b>		X	
<b>Project of Regional Significance</b>		X	

## DEVELOPMENT STANDARDS

*Pursuant to Title 19.04 and Title 19.10, the following parking standards apply:*

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Office, Other Than Listed	6,567 SF	1 space/ 300 SF GFA	21 Spaces	1 Space	8 Spaces	1 Space	N*

		1 space / 50 Storage Units spread through out plus min. 5 spaces on exterior of					
Mini-Storage Facility	32,809 SF 119 Units	security fence	8 Spaces		3 Spaces		N*
General Personal Service	308 SF	1 space / 250 SF GFA	2 Spaces		1 Space		N*
Furniture/App liance Store	561 SF	1 space / 500 SF of GFA	2 Spaces		1 Space		N*
Bakery - Delicatessen/ Donut Shop	1,848 SF	1 space / 100 SF GFA	18 Spaces	1 Space	8 Spaces	1 Space	N*
General Retail, Other Than Listed	7,240 SF	1 space / 175 SF GFA	40 Spaces	2 Spaces	16 Spaces		N*
<b>SubTotal</b>	49,556 SF		91 Spaces	4 Spaces	37 Spaces	2 Spaces	N*
<b>TOTAL</b> (including handicap)			95 Spaces		39 Spaces		N*
Percent Deviation					≈ 58.95% Reduction		
Loading Spaces		3 Spaces at 30,000 to 50,000 SF of GFA	3 Spaces		3 Spaces		Y

\* If approved this Variance would allow 39 parking spaces where 95 parking spaces are the minimum required.



## ANALYSIS

The subject property is designated as LI/R (Light Industrial/Research) under the Southeast Sector Plan of the General Plan. This category allows areas appropriate for clean, low-intensity (non-polluting and non-nuisance) industrial uses, including light manufacturing, assembling and processing, warehousing and distributions, and research, development and testing laboratories. The existing buildings are currently used for a variety of retail and office uses at the front of the property and provides mini-storage facilities for the remainder of the property which are in compliance with the General Plan.

The M (Industrial) zoning district is intended to provide for heavy manufacturing industries in locations where they will be compatible with and not adversely impact adjacent land uses. This district is intended to be located away from all residential development. The uses established at this location are permissible in an M (Industrial) zoning district which is compatible with the LI/R (Light Industrial/Research) General Plan designation.

The site is within the McCarran International Airport Overlay Map portion of the Airport Overlay District. This is a developed site and is in compliance with Title 19.06.080 (B) which allows a "structure to a height up to thirty five feet above the surface of the land on any parcel" without a height limitation review or prohibition.

The site encompasses two parcels with existing buildings built across the lot lines. Additionally, should the parcels in the future become separate sites the site will placed out of conformance with development standards for the M (Industrial) zoning district? For this reason a condition has been added to the Site Development Plan Review (SDR-19214) that prior to the issuance of any building or grading permits that a reversionary parcel map or administrative joining consolidating the parcels be recorded.

The expansion of uses and the increase in square footage devoted to the non mini-storage facility uses requires several deviations from development standards, including a landscape related waivers for the perimeter landscape buffer at the right-of-way and parking area landscaping as a part of the site development plan review (SDR-19214) which is also being heard concurrently with this item. Staff is recommending denial on the site development plan review due to the extent of the wavier requests and need for this variance.

The existing office, retail, and mini-storage facility development requires 95 parking spaces. The submitted site plan indicates 39 spaces will be provided, including two handicap spaces depicted as van accessible. This is a request for a reduction in the number of required parking spaces by approximately 58.95 percent. Staff is not in support of this Variance request as this is a self-imposed hardship generated by the project exceeding the scope of the original approvals for this site and therefore does not meet the criteria for granting a Variance.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by exceeding the originally approved uses and square footage allowed for non mini-storage facility activities. The provision of additional parking spaces or a reduction in the intensity of the uses on-site would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

## **PLANNING COMMISSION ACTION**

There was one speaker at the Planning Commission meeting with questions. The Planning Commission considered adding conditions:

- Pay phones on site shall be removed.
- Building permits and final inspections are required by the Fire Department and Building and Safe Department to convert storage units to commercial use prior to issuance of business licenses.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 12

**ASSEMBLY DISTRICT** 8

**SENATE DISTRICT** 11

**NOTICES MAILED** 707 by City Clerk

**APPROVALS** 0

**PROTESTS** 0